



APPENDIX

THE CONSTITUTION OF THE STATE OF OHIO

Article IV, §4. (Jurisdiction of Courts of Common Pleas):

“The jurisdiction of the courts of common pleas, and of the judges thereof, shall be fixed by law.”

Article IV, §6. (Jurisdiction of Courts of Appeals):

“* * * The courts of appeals shall have original jurisdiction in quo warranto, mandamus, habeas corpus, prohibition and procedendo, and appellate jurisdiction in the trial of chancery cases, and, to review, affirm, modify, or reverse the judgments of the courts of common pleas, superior courts and other courts of record within the district as may be provided by law, and judgments of the courts of appeals shall be final in all cases, except cases involving questions arising under the constitution of the United States or of this state, cases of felony, cases of which it has original jurisdiction, and cases of public or great general interest in which the supreme court may direct any court of appeals to certify its record to that court.

* * *” (Adopted Sept. 3, 1912.)

Article IV, §8. (Jurisdiction of Probate Courts):

“The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, and such jurisdiction in habeas corpus, the issuing of marriage licenses, and for the sale of land by executors, administrators and guardians, and such other jurisdiction, in any county, or counties, as may be provided by law.”

OHIO STATUTES

Ohio General Code, Section 10501-53:

§10501-53. Jurisdiction of the probate court.

§10501-53. Except as hereinafter provided, the probate court shall have jurisdiction:

1. To take proof of wills, and to admit to record authenticated copies of wills executed, proved and allowed in the courts of any other state, territory or country. In case of the sickness or unavoidable absence of the probate judge, any common pleas judge may take proof of wills and approve bonds to be given, but the record of such acts must be preserved in the usual records of the probate court;

2. To grant and revoke letters testamentary and of administration;

3. To direct and control the conduct, and settle the accounts of executors and administrators, and order the distribution of estates;

4. To appoint and remove guardians and testamentary trustees, direct and control their conduct, and settle their accounts;

5. To grant marriage licenses, and licenses to ministers of the gospel to solemnize marriages;

6. To make inquests respecting lunatics, insane persons, idiots and deaf and dumb persons, subject by law to guardianship;

7. To qualify assignees and appoint and qualify trustees and commissioners of insolvent debtors, control their conduct and settle their accounts;

8. To authorize the sale of lands or equitable estates or interests therein, on petition by executors, administrators and guardians, and the assignments of inchoate dower in such cases of sale;

9. To authorize the completion of real contracts on petition of executors and administrators;

10. To allow and issue writs of habeas corpus, and determine the validity of the caption and detention of the persons brought before it on such writs;

11. To construe wills;
12. To render declaratory judgments;
13. To direct and control the conduct of fiduciaries and settle their accounts.

Such jurisdiction shall be exclusive in the probate court unless otherwise provided by law.

The probate court shall have plenary power at law and in equity fully to dispose of any matter properly before the court, unless the power is expressly otherwise limited or denied by statute. (114 v. 335. Eff. Jan. 1, 1932.)

Ohio General Code, Section 10504-71:

§10504-71. Property acquired subsequently.

§10504-71. Any estate, right or interest in lands or personal estate or other property of which the decedent was possessed at his decease shall pass under the will unless the will manifests a different intention. (114 v. 359. Eff. Jan. 1, 1932.)

Ohio General Code, Section 10506-67:

§10506-67. Proceeding when assets concealed or embezzled.

§10506-67. Upon complaint made to the probate court or common pleas court of any county by a fiduciary, creditor, devisee, legatee, heir or other person interested in the trust estate, or by the creditor of any devisee, legatee, heir, or other person interested in the trust estate, against the fiduciary or any other persons suspected of having concealed, embezzled or conveyed away or of being or having been in the possession of any moneys, goods, chattels, things in action, or effects of such estate, said court shall cite the person so suspected forthwith to appear before it to be examined, on oath, touching the matter of the complaint. The probate court shall also have power to initiate proceedings on its own motion. (114 v. 379. Eff. Jan. 1, 1932.)

Ohio General Code, Section 10509-41:

§10509-41. Inventory.

§10509-41. Within one month after the date of his appointment, unless the court grants an extension of time for good cause shown, every executor or administrator or administrator de bonis non shall make and return upon oath into court, a true inventory of the real estate of the deceased, and of the goods, chattels, moneys, rights and credits of the deceased, by law to be administered, and which have come to his possession or knowledge; except that if the probable value of the personal property be less than five hundred dollars, the court may direct that such inventory be omitted. If his predecessors have so done, an administrator de bonis non shall not be required to return and file an inventory, unless, in the opinion of the probate court, it is necessary. (114 v. 411. Eff. Jan. 1, 1932.)

Ohio General Code, Section 10509-41, as amended September 2, 1935, 116 Laws of Ohio, page 394:

§10509-41. Inventory; separate schedule.

§10509-41. Within one month after the date of his appointment, unless the court grants an extension of time for good cause shown, every executor or administrator * * * shall make and return * * * on oath into court, a true inventory of the real estate of the deceased *located in Ohio*, and of the goods, chattels, moneys, rights and credits of the deceased, by law to be administered, and which have come to his possession or knowledge, *based on values as of the date of death of the decedent; except that if the decedent left no surviving spouse or minor child or children, and the probable value of the personal property be less than five hundred dollars or the personal property consists wholly of stocks, bonds, moneys, deposits or other securities*, the court may direct that * * * *an inventory and appraisement be omitted and an inventory*

*without appraisalment be filed in lieu thereof. If his predecessors have so done, * * * a fiduciary shall not be required to return and file an inventory, unless, in the opinion of the probate court, it is necessary.*

*At the time of filing the inventory, the executor or administrator shall file therewith a separate schedule describing any legal or equitable interest in the real estate owned by the decedent located outside of the state of Ohio which has come to his knowledge.**

Ohio General Code, Section 10509-51:

§10509-51. Bonds and other securities.

§10509-51. The inventory shall contain a particular statement of all bonds, mortgages, notes, and other securities for the payment of money, belonging to the deceased, known to such executor or administrator, specifying the name of the debtor in each security, the date, the sum originally payable, the indorsements thereon, if any, with their dates, the serial numbers or other identifying data as to each bond, stock certificate, certificate of deposit, or other security, and the sum which, in the judgment of the appraisers, can be collected on each claim. (114 v. 413. Eff. Jan. 1, 1932.)

Ohio General Code, Section 10509-52:

§10509-52. Accounts and debts receivable.

§10509-52. The inventory also must contain a statement of all debts and accounts belonging to the deceased, known to such executor or administrator, specifying the name of the debtor, the date, the balance or thing due, and the value or sum which can be collected thereon, in the judgment of the appraisers. (114 v. 413. Eff. Jan 1, 1932.)

*(Asterisks in above section denote deletion from former code and italics denote additions.)

Ohio General Code, Section 10509-59:

§10509-59. Exceptions and hearing.

Upon the filing of the inventory the court shall forthwith set a day not later than one month after the day such inventory was filed, for hearing on the inventory, and shall give at least ten days' notice by registered mail or otherwise of the hearing to the executor or administrator and to such of the following as are known to be residents of the state and whose place of residence is known; surviving spouse, if any; next of kin; beneficiaries under the will, if any; the attorney or attorneys, if known, representing any of the aforementioned persons. Such notice may be waived in writing by any of the foregoing. For good cause the hearing may be continued for such time as the court deems reasonable. Exceptions to the inventory and/or year's allowance may be filed at any time prior to five days before the date set for the hearing or the date to which such hearing has been continued as provided herein, by any person interested in the estate or in any of the property included in the inventory, but such time limit for the filing of exceptions shall not apply in case of fraud or concealment of assets. At the hearing the executor or administrator, and any witness may be examined under oath. The court must enter its finding on the journal and tax the costs as may be equitable. (114 v. 415. Eff. Jan. 1, 1932.)

Ohio General Code, Section 11215:

§11215. Jurisdiction in civil cases.—The court of common pleas shall have original jurisdiction in all civil cases where the sum or matter in dispute exceeds the exclusive original jurisdiction of justices of the peace; and appellate jurisdiction from the decision of county commissioners, justices of the peace, and other inferior courts in the proper county, in all civil cases, subject to the regulations provided by law. (R. S. §456.)

Ohio General Code, Section 11238:

§11238. Form of action.—There shall be but one form of action, to be known as a civil action. This requirement does not affect any substantive right or liability, legal or equitable. (R. S. §4971; 37 O. S. 387; 15 O. S. 412.)